

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GEIS PROPERTIES, LLC,	:	
	:	
Plaintiff,	:	Civil Action No.: 08 Civ. 3911
	:	
- against -	:	
	:	<u>ANSWER, SEPARATE</u>
SHELL OIL COMPANY,	:	<u>DEFENSES</u>
	:	
	:	
Defendant.	:	
-----	X	

Shell Oil Company ("SOC") hereby responds to plaintiff's Complaint as follows:

1. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 1 of the Complaint and leaves plaintiff to its proofs.
2. SOC admits the allegations contained in paragraph 2 of the Complaint.
3. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 3 of the Complaint and leaves plaintiff to its proofs.
4. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 4 of the Complaint and leaves plaintiff to its proofs.
5. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 5 of the Complaint and leaves plaintiff to its proofs.
6. Except to admit that Mid-Westchester Industrial Park, Inc. ("Mid-Westchester") leased property located at Route 6 and Westbrook Drive in Peekskill, New York to SOC, SOC denies the allegations asserted in paragraph 6 of the Complaint.
7. Except to admit that SOC operated a gasoline service station on the property that it leased from Mid-Westchester located at Route 6 and Westbrook Drive in Peekskill, New York

to SOC for some period of time, SOC denies the allegations asserted in paragraph 7 of the Complaint.

8. SOC denies the allegations asserted in paragraph 8 of the Complaint.
9. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 9 of the Complaint and leaves plaintiff to its proofs.
10. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 10 of the Complaint and leaves plaintiff to its proofs.
11. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 11 of the Complaint and leaves plaintiff to its proofs.
12. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 12 of the Complaint and leaves plaintiff to its proofs.
13. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 13 of the Complaint and leaves plaintiff to its proofs.
14. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 14 of the Complaint and leaves plaintiff to its proofs.
15. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 15 of the Complaint and leaves plaintiff to its proofs.

FIRST CAUSE OF ACTION

New York Navigation Law

16. SOC repeats and incorporates its responses to the preceding allegations as if set forth at length.
17. SOC denies the allegations contained in paragraph 17 of the Complaint.

18. The allegations contained in paragraph 18 of the Complaint state a legal conclusion to which no response is required. To the extent that a response is deemed to be required, SOC denies the allegations contained in paragraph 18 of the Complaint.
19. The allegations contained in paragraph 19 of the Complaint state a legal conclusion to which no response is required. To the extent that a response is deemed to be required, SOC denies the allegations contained in paragraph 19 of the Complaint.
20. The allegations contained in paragraph 20 of the Complaint state a legal conclusion to which no response is required. To the extent that a response is deemed to be required, SOC denies the allegations contained in paragraph 20 of the Complaint.
21. The allegations contained in paragraph 21 of the Complaint state a legal conclusion to which no response is required. To the extent that a response is deemed to be required, SOC denies the allegations contained in paragraph 21 of the Complaint.
22. The allegations contained in paragraph 22 of the Complaint state a legal conclusion to which no response is required. To the extent that a response is deemed to be required, SOC denies the allegations contained in paragraph 22 of the Complaint.
23. SOC denies the allegations contained in paragraph 23 of the Complaint.
24. SOC denies the allegations contained in paragraph 24 of the Complaint.
25. SOC denies the allegations contained in paragraph 25 of the Complaint.
26. SOC denies the allegations contained in paragraph 26 of the Complaint.
27. SOC denies the allegations contained in paragraph 27 of the Complaint.

SECOND CAUSE OF ACTION

Declaratory Judgment

28. SOC repeats and incorporates its responses to the preceding allegations as if set forth at length.
29. SOC denies the allegations contained in paragraph 29 of the Complaint.
30. SOC denies the allegations contained in paragraph 30 of the Complaint.
31. SOC denies the allegations contained in paragraph 31 of the Complaint.
32. SOC denies the allegations contained in paragraph 32 of the Complaint.
33. SOC denies the allegations contained in paragraph 33 of the Complaint.

THIRD CAUSE OF ACTION

Negligence

34. SOC repeats and incorporates its responses to the preceding allegations as if set forth at length.
35. SOC denies the allegations contained in paragraph 35 of the Complaint.
36. SOC denies the allegations contained in paragraph 36 of the Complaint.
37. SOC denies the allegations contained in paragraph 37 of the Complaint.
38. SOC denies the allegations contained in paragraph 38 of the Complaint to the extent they are directed against it.
39. SOC denies the allegations contained in paragraph 39 of the Complaint.
40. SOC denies the allegations contained in paragraph 40 of the Complaint.

FOURTH CAUSE OF ACTION

Strict Liability

- 41. SOC repeats and incorporates its responses to the preceding allegations as if set forth at length.
- 42. SOC denies the allegations contained in paragraph 42 of the Complaint.
- 43. SOC denies the allegations contained in paragraph 43 of the Complaint.
- 44. SOC denies the allegations contained in paragraph 44 of the Complaint.
- 45. SOC denies the allegations contained in paragraph 45 of the Complaint.
- 46. SOC denies the allegations contained in paragraph 46 of the Complaint.
- 47. SOC denies the allegations contained in paragraph 47 of the Complaint.

FIFTH CAUSE OF ACTION

Nuisance

- 48. SOC repeats and incorporates its responses to the preceding allegations as if set forth at length.
- 49. SOC denies the allegations contained in paragraph 49 of the Complaint.
- 50. SOC lacks knowledge or information sufficient to form a belief in the truth of the allegations asserted in paragraph 50 of the Complaint and leaves plaintiff to its proofs.
- 51. SOC denies the allegations contained in paragraph 51 of the Complaint.
- 52. SOC denies the allegations contained in paragraph 52 of the Complaint.
- 53. SOC denies the allegations contained in paragraph 53 of the Complaint.

SIXTH CAUSE OF ACTION

Common Law Indemnification

- 54. SOC repeats and incorporates its responses to the preceding allegations as if set forth at length.
- 55. SOC denies the allegations contained in paragraph 55 of the Complaint.
- 56. SOC denies the allegations contained in paragraph 56 of the Complaint.
- 57. SOC denies the allegations contained in paragraph 57 of the Complaint.
- 58. SOC denies the allegations contained in paragraph 58 of the Complaint.

WHEREFORE, SOC demands judgment in its favor, dismissing the Complaint in its entirety with prejudice, together with fees, costs, interest and all other relief deemed appropriate and just.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

Plaintiff's claims are barred by the doctrine of estoppel.

THIRD SEPARATE DEFENSE

Plaintiff's claims are barred by the doctrine of laches.

FOURTH SEPARATE DEFENSE

Plaintiff's claims are barred by the doctrine of waiver.

FIFTH SEPARATE DEFENSE

Plaintiff's claims are barred by the doctrine of unclean hands.

SIXTH SEPARATE DEFENSE

Plaintiff's alleged damages were caused by the intervening/superseding acts of independent third parties over which the Defendant had no control.

SEVENTH SEPARATE DEFENSE

Plaintiff's claims are barred by the applicable statute of limitations

EIGHTH SEPARATE DEFENSE

Plaintiff's claims are barred by the applicable statutes of frauds.

NINTH SEPARATE DEFENSE

Plaintiff's claims are barred by its assumption of risk.

TENTH SEPARATE DEFENSE

The Defendant did not owe plaintiff any duty and, in any event, did not breach any duty to it.

ELEVENTH SEPARATE DEFENSE

The Defendant complied with all applicable laws and regulations during the time period encompassed by the claims.

TWELFTH SEPARATE DEFENSE

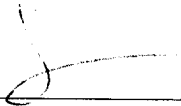
Plaintiff's claims are barred by its failure to mitigate.

THIRTEENTH SEPARATE DEFENSE

The Defendant's alleged actions are not the proximate cause or cause-in-fact of any damage to plaintiff.

WHEREFORE, SOC demand judgment in its favor dismissing the Complaint against it in its entirety with prejudice, together with fees, costs, interest and all other relief deemed to be appropriate and just.

EPSTEIN BECKER & GREEN, P.C.
Attorneys for Defendants

By: 
SHEILA A. WOOLSON
Member of the Firm

Dated: June 2, 2008
Newark, New Jersey

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

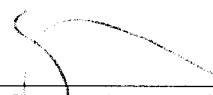
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GEIS PROPERTIES, LLC,	:
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Plaintiff,	:
	:
- against -	:
	:
SHELL OIL COMPANY,	:
	:
	:
Defendant.	:
----- X	

Civil Action No.: 08 Civ. 3911

**CERTIFICATION
OF SERVICE**

I hereby certify that on this date I caused a true copy of Defendant's Answer and Separate Defenses to be filed via Electronic Case Filing (ECF) with the Clerk of the United States District Court for the Southern District of New York, and to be served upon plaintiff via ECF to Nolan E. Shanahan Esq., Cole, Schotz, Meisel, Forman & Leonard, P.A., attorneys for plaintiff, 900 Third Avenue, 16th Floor, New York, New York 10022. Parties may access this filing through the Court's system.

EPSTEIN BECKER & GREEN, P.C.
Attorneys for Defendants

By: 

SHEILA A. WOOLSON
Member of the Firm

Dated: June 2, 2008
Newark, New Jersey